

PROMISING PRACTICES IN HOME AND COMMUNITY-BASED SERVICES

Texas – Appropriations Rider: Promoting Independence “Money Follows the Person”

Issue: Shifting Funds from Nursing Facility to Community-Based Services Budgets when People Leave Nursing Facilities

Summary

Texas' legislature included a rider in the state's 2001 appropriations act to promote independence and community integration for nursing facility residents. Originally called Rider 37, it allowed Medicaid funding to follow an individual moving from a nursing facility into the community. Since the rider became effective in September 2001, over 1,900 Medicaid participants in Texas have transitioned from nursing facilities into the community using their nursing facility funding.

Introduction

In response to the 1999 U.S. Supreme Court *Olmstead* vs. *L.C.* decision, the Texas Department of Human Services (TDHS) established a plan for community integration of current and potential nursing facility residents. With approximately 62,000 individuals residing in nursing facilities in the State of Texas, there was tremendous potential to serve people who met nursing facility level of care in a more appropriate community setting, without increasing the cost to the state.

Texas, like many states, cannot serve all people eligible for its Medicaid Home and Community-Based Services (HCBS) waivers, and keeps a list of people interested in the waivers (called an interest list). As a result, people may need to wait several months for services they need. This wait for services can prolong a person's nursing home stay because nursing home residents often cannot live safely in the community without services.

**Due to waiting lists,
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months for HCBS.**

To eliminate the need for nursing facility residents to wait for services, the Texas Legislature authorized an appropriations rider that allows people to leave nursing facilities and immediately receive support in the community. The rider funds the services by allowing TDHS

to shift funds from nursing facilities to HCBS as people leave nursing facilities. This report briefly describes the rider based on interviews with staff from TDHS and TDHS written reports.

Background

In September 2001, the Texas legislature included Rider 37 in the state appropriations act. The rider allowed TDHS to move Medicaid funding from the nursing facility budget to the budget for Community Care Programs when a Medicaid participant transitions from a nursing facility into a home or another community-based residence such as an assisted living facility. The Community Care Programs budget includes funding for Medicaid HCBS waivers, Medicaid state plan services, and services funded by the federal Social Services Block Grant.

Specifically, Rider 37 stated that:

“It is the intent of the legislature that as clients relocate from nursing facilities to community care services, funds will be transferred from Nursing Facilities to Community Care Services to cover the cost of the shift in services.”

Since Texas authorizes budgets every two years, the rider was initially set to expire in August 2003. In 2003, Texas renewed the rider (now titled Rider 28), so it will remain in effect through August 2005.

Intervention

The rider allows any interested Medicaid nursing facility resident to apply for transition into the community and have the money follow them when they leave the nursing facility. TDHS transfers the amount of money for each individual's community services from the nursing facility budget to the budget for Community Care Programs.

Residents learned about their options through a letter TDHS sent to all Texas nursing home residents. This letter was part of the plan to promote independence that Texas developed after the *Olmstead* decision. The letter included written materials to inform residents of their choices and provided the phone number for their local TDHS Community Care office, which administers several Community Care Programs at the local level. To qualify for the rider, a nursing facility resident must be financially eligible for a Community Care Program if he or she moves into the community, and must be receiving Medicaid support for the nursing facility services.

Once residents indicate a desire to transition into the community, a state-employed case manager assesses the person to determine if he or she meets the medical and functional eligibility criteria for at least one of Texas' Community Care Programs. The resident must remain in the nursing facility until eligibility is determined. The case manager works with the person to develop and implement a care plan for supporting the person in the community after eligibility is determined. If the resident wants to receive Medicaid HCBS waiver services and leaves before eligibility determination is complete, he or she will go on the interest list for waiver services (similar to a waiting list in other states, but called an interest list because eligibility has not been verified).

Once in the community, participants may use any Community Care Program for which they are eligible. Often this is the Community Based

Alternative (CBA) waiver, a Medicaid HCBS waiver that serves older people and adults with physical disabilities. CBA usually has a long interest list. However, since the money follows the participant from the nursing facility into the community, the participant does not have to go on the interest list and can receive services more quickly.

Implementation

TDHS implemented the rider relatively quickly and efficiently, since 1) it did not require major restructuring of Texas' long term care system, and 2) the legislature approved no additional funds for the rider. Case managers that assist people during transition are the same case managers who support Community Care Program participants already in the community. Training expenses were minor because no new people were hired; TDHS made case managers and Medicaid eligibility workers aware of the new option for people leaving nursing homes.

Impact

The option of transferring funding from nursing facilities to community services has helped over 1,900 people transition into the community. The state is monitoring the rider's impact on the nursing facility budget.

Texas measures HCBS waiver consumer satisfaction for all participants, including former nursing facility residents, through a survey case managers conduct every six months. Texas is currently compiling information specifically for those people who used the rider.

Contact Information

For more information about Texas' Rider 28, please call Gerardo Cantu, Texas Department of Human Services, at (512) 438-3693 or jose.cantu@dhs.state.tx.us. Online information about the rider is available at <http://www.dhs.state.tx.us>.

One of a series of reports by Medstat for the U.S. Centers for Medicare & Medicaid Services (CMS) highlighting promising practices in home and community-based services. The entire series will be available online at CMS' web site, <http://www.cms.gov>. This report is intended to share information about different approaches to offering home and community-based services. This report is not an endorsement of any practice.

Discussion Question:

How can states prevent people from entering a nursing facility in order to receive HCBS more quickly?